

SB0117



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB0117

Introduced 1/27/2011, by Sen. Martin A. Sandoval

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-21

from Ch. 38, par. 12-21

Amends the Criminal Code of 1961. Makes a technical change in the Section concerning the offense of criminal abuse or neglect of an elderly person or person with a disability.

LRB097 06230 RLC 46305 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Section 12-21 as follows:

6 (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

7 Sec. 12-21. Criminal abuse or neglect of an elderly person
8 or person with a disability.

9 (a) A person commits the ~~the~~ offense of criminal abuse or
10 neglect of an elderly person or person with a disability when
11 he or she is a caregiver and he or she knowingly:

12 (1) performs acts that cause the elderly person or
13 person with a disability's life to be endangered, health to
14 be injured, or pre-existing physical or mental condition to
15 deteriorate; or

16 (2) fails to perform acts that he or she knows or
17 reasonably should know are necessary to maintain or
18 preserve the life or health of the elderly person or person
19 with a disability and such failure causes the elderly
20 person or person with a disability's life to be endangered,
21 health to be injured or pre-existing physical or mental
22 condition to deteriorate; or

23 (3) abandons the elderly person or person with a

1 disability; or

2 (4) physically abuses, harasses, intimidates, or
3 interferes with the personal liberty of the elderly person
4 or person with a disability or exposes the elderly person
5 or person with a disability to willful deprivation.

6 Criminal abuse or neglect of an elderly person or person
7 with a disability is a Class 3 felony. Criminal neglect of an
8 elderly person or person with a disability is a Class 2 felony
9 if the criminal neglect results in the death of the person
10 neglected for which the defendant, if sentenced to a term of
11 imprisonment, shall be sentenced to a term of not less than 3
12 years and not more than 14 years.

13 (b) For purposes of this Section:

14 (1) "Elderly person" means a person 60 years of age or
15 older who is incapable of adequately providing for his own
16 health and personal care.

17 (2) "Person with a disability" means a person who
18 suffers from a permanent physical or mental impairment,
19 resulting from disease, injury, functional disorder or
20 congenital condition which renders such person incapable
21 of adequately providing for his own health and personal
22 care.

23 (3) "Caregiver" means a person who has a duty to
24 provide for an elderly person or person with a disability's
25 health and personal care, at such person's place of
26 residence, including but not limited to, food and

1 nutrition, shelter, hygiene, prescribed medication and
2 medical care and treatment.

3 "Caregiver" shall include:

4 (A) a parent, spouse, adult child or other relative
5 by blood or marriage who resides with or resides in the
6 same building with or regularly visits the elderly
7 person or person with a disability, knows or reasonably
8 should know of such person's physical or mental
9 impairment and knows or reasonably should know that
10 such person is unable to adequately provide for his own
11 health and personal care;

12 (B) a person who is employed by the elderly person
13 or person with a disability or by another to reside
14 with or regularly visit the elderly person or person
15 with a disability and provide for such person's health
16 and personal care;

17 (C) a person who has agreed for consideration to
18 reside with or regularly visit the elderly person or
19 person with a disability and provide for such person's
20 health and personal care; and

21 (D) a person who has been appointed by a private or
22 public agency or by a court of competent jurisdiction
23 to provide for the elderly person or person with a
24 disability's health and personal care.

25 "Caregiver" shall not include a long-term care
26 facility licensed or certified under the Nursing Home Care

1 Act or a facility licensed or certified under the MR/DD
2 Community Care Act, or any administrative, medical or other
3 personnel of such a facility, or a health care provider who
4 is licensed under the Medical Practice Act of 1987 and
5 renders care in the ordinary course of his profession.

6 (4) "Abandon" means to desert or knowingly forsake an
7 elderly person or person with a disability under
8 circumstances in which a reasonable person would continue
9 to provide care and custody.

10 (5) "Willful deprivation" has the meaning ascribed to
11 it in paragraph (15) of Section 103 of the Illinois
12 Domestic Violence Act of 1986.

13 (c) Nothing in this Section shall be construed to limit the
14 remedies available to the victim under the Illinois Domestic
15 Violence Act.

16 (d) Nothing in this Section shall be construed to impose
17 criminal liability on a person who has made a good faith effort
18 to provide for the health and personal care of an elderly
19 person or person with a disability, but through no fault of his
20 own has been unable to provide such care.

21 (e) Nothing in this Section shall be construed as
22 prohibiting a person from providing treatment by spiritual
23 means through prayer alone and care consistent therewith in
24 lieu of medical care and treatment in accordance with the
25 tenets and practices of any church or religious denomination of
26 which the elderly person or person with a disability is a

1 member.

2 (f) It is not a defense to criminal abuse or neglect of an
3 elderly person or person with a disability that the accused
4 reasonably believed that the victim was not an elderly person
5 or person with a disability.

6 (Source: P.A. 96-339, eff. 7-1-10.)